

Article - Health Occupations

[\[Previous\]](#)[\[Next\]](#)

§1–203.

(a) Except as provided in subsection (c) of this section, the power of the Secretary over plans, proposals, and projects of units in the Department does not include the power to disapprove or modify any decision or determination that a board or commission established under this article makes under authority specifically delegated by law to the board or commission.

(b) The power of the Secretary to transfer staff or functions of units in the Department does not apply to any staff of a board or commission, established under this article, or to any functions that pertain to licensing, disciplinary, or enforcement authority, or to any other authority specifically delegated by law to a board or commission.

(c) (1) Notwithstanding §§ 8–205(b)(5) and 8–205.1 of the State Government Article and except as provided in subsection (d) of this section, the Secretary and the Office of Administrative Hearings, in consultation with stakeholders and other interested parties, shall adopt regulations for the supervision of each board or commission that is composed in whole or in part of individuals participating in the occupation or profession regulated by the board or commission, including the review by the Office of Administrative Hearings described under this subsection, in order to:

(i) Prevent unreasonable anticompetitive actions by the board or commission; and

(ii) Determine whether the actions of the board or commission further a clearly articulated State policy to displace competition in the regulated market.

(2) In accordance with regulations adopted under this subsection, the Office of Administrative Hearings:

(i) Shall review a decision or action of a board or commission that is referred to the Office in order to determine whether the decision or action furthers a clearly articulated State policy to displace competition in the regulated market;

(ii) May not approve a decision or action of a board or commission that does not further a clearly articulated State policy to displace competition in the regulated market; and

(iii) In conjunction with the Office of the Attorney General, shall establish a process:

1. By which the Office of Administrative Hearings reviews decisions or actions of a board or commission;

2. That is independent of the process by which the Office of Administrative Hearings hears adjudicated, contested cases; and

3. That includes:

A. The types of decisions or actions of a board or commission that may be referred to the Office of Administrative Hearings for review;

B. Qualifications and specialized training requirements for administrative law judges conducting reviews as required under this subsection;

C. Checks for identification and management of potential conflicts when the Office of Administrative Hearings conducts a contested case hearing in accordance with Title 10, Subtitle 2 of the State Government Article; and

D. Appropriate standards and guidelines for conducting reviews as required under this subsection.

(3) A board or commission may not implement a decision or a final action of the board or commission until after the Office of Administrative Hearings has conducted the review required under this subsection.

(4) The process specified under paragraph (2)(iii) of this subsection shall require the Office of Administrative Hearings to:

(i) Review the merits of the decision or action of a board or commission;

(ii) Assess whether the decision or action furthers a clearly articulated State policy to displace competition in the regulated market; and

(iii) Issue expeditiously a written decision approving, disapproving, or modifying the decision or action or remanding the decision or action back to the board or commission for further review.

(5) The decision or action implemented by a board or commission shall comply with the written decision of the Office of Administrative Hearings.

(6) The Office of Administrative Hearings may not authorize an administrative law judge to review the decision or action if the judge is appointed by, under the oversight of, or a member of a board or commission whose action is the subject of review.

(7) Each board or commission shall be responsible for the costs associated with the review by the Office of Administrative Hearings of decisions or actions of the respective board or commission.

(d) Subsection (c) of this section does not apply to:

(1) A decision or determination of a board or commission concerning ministerial acts;

(2) The internal operations of a board or commission;

(3) Investigations;

(4) Charges; and

(5) As it relates to an individual regulated by a board or commission:

(i) Consent orders; and

(ii) Letters of surrender.

[\[Previous\]](#)[\[Next\]](#)